

SEABROOK POLICE ASSOCIATION :  
:  
Complainant :  
v. :  
TOWN OF SEABROOK :  
:  
Respondent :  
:

CASE NO. P-0736:1

DECISION NO. 83-50

APPEARANCES

Representing Seabrook Police Association

J. Joseph McKittrick, Esq., Counsel

Representing Town of Seabrook

Gary W. Holmes, Counsel

Also in Attendance

William D. Nickles  
Robie Beckman, Jr.  
Frank L. Knowles, Jr.

Henry P. Emond  
Frederick B. Felch  
Roy F. Crossland

BACKGROUND

On March 11, 1983, the Seabrook Police Association filed improper practice charges against the Town of Seabrook alleging violations of RSA 273-A:5 (a) (b) and (i). Specifically, the Association charges that the Chief of Police did issue a written reprimand to Officer William D. Nickles, President of Association, over an incident involving Officer Nickles and others and that this was done despite the fact that Mr. Nickles' activity related to union business and was therefore an attempt to intimidate a union officer.

The Town admits the reprimand was issued, but denies a breach of RSA 273-A, specifically claims the right "to manage and direct its operations" except as agreed to in their collective agreement, and further points out that under the contract, the disciplinary action was purged from the files after six (6) months and is no longer a part of the record.

A hearing was held at the PELRB Office in Concord on October 6, 1983, and all parties were represented.

FINDINGS OF FACT AND RULINGS OF LAW

At the hearing testimony was received about the incident itself and about the reactions of various persons, including Nickles, to the incident and subsequent

action by the Police Chief. Apparently Officer Nickles did have words with Officer Knowles over union matters and Officer Nickles did use certain foul language and in such a way as to be abusive to Officer Knowles. It was the language and the abusiveness for which the Chief reprimanded Officer Nickles. Officer Nickles testified that the reprimand had a "chilling effect" on the performance of his union duties in that he deliberately avoided union discussion unless away from his administrative supervisors.

Testimony was also received that indicated that the language used by Mr. Nickles was rather commonly used by Officers although not necessarily the combination of language and actions characterizing the incident referred to here, and no one was ever disciplined for it. Testimony also established that no "civilians" were present to overhear the incident, although someone could have entered the portion of the station which is public.

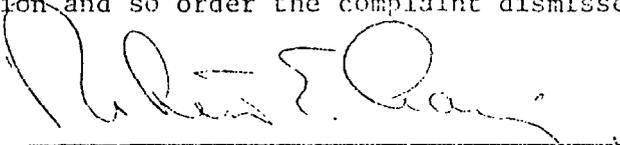
The Chief testified as to his actions in investigating that incident and his concern that the action of Officer Nickles was "provocative" and therefore not simply the use of bad language. The extent to which the incident "bothered" others working at the time was not clearly established nor was it clear that the Chief's investigation had established the incident as "disruptive" prior to the issuance of the reprimand.

#### DECISION

The PELRB finds that while RSA 273-A clearly intends to protect employees rights to conduct union business, this protection cannot be stretched to cover the use of foul and abusive language in situations where other employees feel threatened and supervisors are concerned with the potential for physical violence and disruption. Union activities which are carried out in normal tones and in a reasonable manner will be protected under the act, other activities cannot claim such protection.

In this case, although others had not been disciplined for the use of such language, still others had not been union officials dealing with reluctant fellow employees and not in the manner as indicated here.

We find no support for the Association's contention that the Town acted to coerce and/or intimidate the union and so order the complaint dismissed.

  
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ROBERT E. CRAIG, CHAIRMAN  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 17th day of November, 1983.

By unanimous vote. Robert E. Craig, presiding, members Robert Steele, Russell Hilliard. Also present, Executive Director, Evelyn C. LeBrun.